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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

CLAYTON ERIC KOEHN,

Defendant and Appellant.

C086463

(Super. Ct. No. 17CF03949)

Appointed counsel for defendant Clayton Eric Koehn filed an opening brief setting forth the facts of the case and asks this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) We affirm the judgment.

FACTS AND PROCEEDINGS

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 123-124.)

In January 2017, the Butte County District Attorney's Office investigator received a "Suspected Child Abuse Referral" from Butte County Children Services Division. The

referral alleged defendant was sexually abusing his stepdaughters, who were then 15 and 11 years old. The investigation revealed defendant had been raping and otherwise sexually and physically abusing his stepdaughters for years.

The investigation also revealed that defendant exposed himself to friends of his stepdaughters when they came to the house. Additionally, defendant enlisted his 16-year-old stepson to participate in defendant's business of selling marijuana; often forcing the child to smoke marijuana with him. During this time, defendant was twice convicted of domestic violence perpetrated against the children's mother; both times he was sentenced to prison.

The People charged defendant with numerous felony sexual offenses, identifying both his stepdaughters as victims. The People also alleged defendant served two prior prison terms (Pen. Code, § 667.5). Defendant pleaded guilty to one count of continuous sexual abuse of a child (Pen. Code, § 288.5, subd. (a)), one count of forcible oral copulation of a child over the age of 14 (Pen. Code, § 288a, subd. (c)(2)(C)), and two counts of committing a lewd act upon a child (Pen. Code, § 288, subd. (a)). In exchange for his plea, the People moved to dismiss the remaining charges and allegations with a waiver pursuant to *People v. Harvey* (1979) 25 Cal.3d 754 and agreed to a sentencing bid of 30 years in state prison. The trial court granted the People's motion to dismiss.

At sentencing, the trial court noted under Penal Code section 1170.1 and *People v. Pelayo* (1999) 69 Cal.App.4th 115, the maximum allowable term for defendant's crimes was 36 years, not 30. The court, nevertheless, would honor the People's agreement that defendant would serve no more than 30 years in state prison. Finding numerous aggravating circumstances and no mitigating circumstances, the court sentenced defendant to 30 years in state prison.

The trial court ordered defendant to pay various fines and fees, including a \$10,000 restitution fine (Pen. Code, § 1202.4), and ordered him to pay direct restitution

to both victims. The court awarded defendant 177 days of custody credit and indicated defendant could earn as many as 1,615 days of credit toward his 30-year term.

Defendant filed a timely notice of appeal but did not obtain a certificate of probable cause.

DISCUSSION

Appointed counsel filed an opening brief that sets forth the facts of the case and asks us to determine whether there are any arguable issues on appeal. (*People v. Wende, supra*, 25 Cal.3d 436.) Counsel advised defendant of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days have elapsed, and we have received no such communication from defendant.

We have undertaken an examination of the entire record and find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

HULL, Acting P. J.

We concur:

MURRAY, J.

HOCH, J.